MONTANA LEGISLATIVE HISTORY

Chapter 120 19 89

Bill H 254 S _____ Original bill & history ✓ C

H. Committee on Business & Labor		S. Committee on Business & Industry	
Hearing Date(s) Jan 27	✓ C	Hearing Date(s) Feb 13	✓ C
_____	___ C	Feb 16	✓ C
_____	___ C	Feb 12	✓ C
_____	___ C	_____	___ C
Date Out Jan 27	✓ C	Feb 17	___ ✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

1/16	INTRODUCED		
1/16	REFERRED TO LOCAL GOVERNMENT		
1/23	HEARING		
2/02	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/04	2ND READING PASSED	99	0
2/05	3RD READING PASSED	96	0
	TRANSMITTED TO SENATE		
2/10	REFERRED TO LOCAL GOVERNMENT		
3/19	HEARING		
3/20	COMMITTEE REPORT--BILL CONCURRED		
3/24	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
4/01	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 374 EFFECTIVE DATE: 10/01/87		

HB 254 INTRODUCED BY THOMAS, ET AL.
REGULATE CANCELLATION OR NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE
BY REQUEST OF JOINT INTERIM SUBCOMMITTEE ON LIABILITY ISSUES

1/16	INTRODUCED		
1/16	REFERRED TO BUSINESS & LABOR		
1/27	HEARING		
1/27	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/29	2ND READING PASSED AS AMENDED	88	8
1/31	3RD READING PASSED	92	2
	TRANSMITTED TO SENATE		
2/02	REFERRED TO BUSINESS & INDUSTRY		
2/13	HEARING		
2/18	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/02	2ND READING CONCURRED	47	0
3/04	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/07	2ND READING AMENDMENTS CONCURRED	89	0
3/09	3RD READING AMENDMENTS CONCURRED	97	0
3/11	SIGNED BY SPEAKER		
3/12	SIGNED BY PRESIDENT		
3/12	TRANSMITTED TO GOVERNOR		
3/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 120 EFFECTIVE DATE: 10/01/87		

HB 255 INTRODUCED BY GILBERT
TRANSFER $6 MILLION FROM COAL TAX BOND FUND TO HIGHWAY RECONSTRUCTION TRUST

1/16	INTRODUCED		
1/16	REFERRED TO TAXATION		
1/22	HEARING		
1/27	COMMITTEE REPORT--BILL NOT PASSED		
1/28	ADVERSE COMMITTEE REPORT ADOPTED	75	24

HB 256 INTRODUCED BY PISTORIA, ET AL.
INCREASE AND CREATE FILING FEES IN CIVIL CASES TO

HOUSE BILL NO. 254

INTRODUCED BY THOMAS, B. BROWN

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON LIABILITY ISSUES

IN THE HOUSE

JANUARY 16, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 27, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1987	PRINTING REPORT.
JANUARY 29, 1987	SECOND READING, DO PASS AS AMENDED.
JANUARY 30, 1987	ENGROSSING REPORT.
JANUARY 31, 1987	THIRD READING, PASSED.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 18, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 2, 1987	SECOND READING, CONCURRED IN.
MARCH 4, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 7, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 9, 1987

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

House BILL NO. 254

INTRODUCED BY Thomas Bob Brown

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON LIABILITY ISSUES

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE GROUNDS ON WHICH PROPERTY OR CASUALTY INSURANCE MAY BE CANCELED OR NOT RENEWED; AND REQUIRING NOTICE OF CANCELLATION OR NONRENEWAL OF A PROPERTY OR CASUALTY POLICY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose -- applicability. (1) The purpose of [sections 1 through 9] is to protect the public with regard to insurance transactions that involve cancellation, renewal, nonrenewal, or premium increases on contracts of property or casualty insurance by:

(a) regulating the grounds for midterm cancellation of an insurance policy;

(b) prohibiting midterm increases in premiums;

(c) increasing the opportunity for insureds to shop for replacement or substitute insurance;

(d) reducing the opportunity for breach of contract, misrepresentation by omission or untimely disclosure, and unfair discrimination among insureds; and

(e) increasing the opportunity for agents to compete

freely.

(2) [Sections 1 through 9] apply to those forms of insurance defined in 33-1-206 and 33-1-210, except to the extent they conflict with 33-23-211 through 33-23-214, 33-23-301, 33-23-302, and 33-23-401.

(3) [Sections 1 through 9] do not limit the activities that may constitute undefined unfair trade practices prohibited by 33-18-1003. The commissioner may apply other provisions of this code to insurance transactions involving cancellation, renewal, nonrenewal, or premium increases on contracts of property or casualty insurance. Policies may provide terms more favorable to insureds than are required by [sections 1 through 9]. The rights provided by [sections 1 through 9] are in addition to and do not prejudice any other rights that the insured may have under common law, statutes, or rules.

Section 2. Definitions. As used in [sections 1 through 9], the following definitions apply unless the context requires otherwise:

(1) "Anniversary date" means the month and day that rates, rating plans, and rating systems are initially applied to a policy in effect. The term includes each annual anniversary thereafter unless the insurer establishes a different date by a filing with the commissioner.

(2) "Cancellation" means the decision by the insurer

INTRODUCED BILL
HB 254

to terminate an insurance policy prior to the expiration of its term.

(3) "Classification" means an arrangement of insurance risks into an underwriting or rating group according to a classification system used by an insurer as a basis for tabulating statistical experience and determining premium rates.

(4) "Classification system" means a schedule of classifications and a rule used by an insurer for determining the classifications applicable to an insured.

(5) "Insurer" means an insurer authorized to transact property or casualty insurance in this state.

(6) "Premium" means the contractual consideration charged to an insured for insurance for a specified period of time, regardless of the timing of actual charges.

(7) "Rate" means a monetary amount applied to the units of exposure assigned to a classification and used by an insurer to determine the premium for an insured.

(8) "Rating plan" means a rule used by an insurer to calculate:

(a) the premium for an insured; and

(b) the parameter values used in such calculation after application of classification premium rates to units of exposure.

(9) "Renewal" means an agreement between an insurer

and an insured to extend or continue an existing insurance policy for 90 days or more.

Section 3. Midterm cancellation. (1) An insurer may not cancel an insurance policy before either the expiration of the agreed term or 1 year from the effective date of the policy or renewal date, whichever is less, except:

(a) for reasons specifically allowed by statute;

(b) for failure to pay a premium when due; or

(c) on grounds stated in the policy which pertain to the following:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk when the contract was written;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) determination by the commissioner that continuation of the policy would place the insurer in violation of this code;

(v) financial impairment of the insurer; or

(vi) any other reason approved by the commissioner.

(2) Cancellation under subsection (1) is not effective until 10 days after a notice of cancellation is either delivered or mailed to the insured.

(3) Subsections (1) and (2) do not apply to a newly issued insurance policy if the policy has been in effect less than 60 days at the time the notice of cancellation is mailed or delivered. No cancellation under this subsection is effective until 10 days after the date of delivery or mailing.

(4) If a policy has been issued for a term longer than 1 year and if either the premium is prepaid or an agreed term is guaranteed for additional premium consideration, the insurer may not cancel the policy except:

(a) for reasons specifically allowed by statute;

(b) for failure to pay a premium when due; or

(c) on grounds stated in the policy which pertain to those grounds listed in subsection (1)(c).

Section 4. Anniversary cancellation -- anniversary rate increases. (1) An insurer may issue a policy for a term longer than 1 year or for an indefinite term if the policy contains a clause that allows cancellation by the insurer if the insurer gives notice 30 days prior to an anniversary date.

(2) If a policy has been issued for a term longer than 1 year and for additional premium consideration an annual premium has been guaranteed, the insurer may not increase the annual premium for the term of that policy.

Section 5. Nonrenewal -- renewal premium. (1) An

insured has a right to reasonable notice of nonrenewal. Unless otherwise provided by statute or unless a longer term is provided in the policy, at least 30 days prior to the expiration date provided in the policy, an insurer who does not intend to renew a policy beyond the agreed expiration date shall mail or deliver to the insured a notice of such intention. The insurer shall also mail or deliver a copy to the insured's agent.

(2) An insurer shall give notice of premium due not more than 60 days or less than 10 days before the due date of a renewal premium. The notice must clearly state the effect of nonpayment of the premium on or before the due date.

(3) Subsections (1) and (2) do not apply if:

(a) the insured has obtained insurance elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal; or

(b) the policy is expressly designated as nonrenewable.

Section 6. Renewal with altered terms. (1) If an insurer offers or purports to renew a policy but on less favorable terms, at a higher rate, or at a higher rating plan, the new terms, rates, or rating plan take effect on the policy renewal date only if the insurer has mailed or delivered notice of the new terms, rates, or rating plan to

the insured at least 30 days before the expiration date. If the insured has not been so notified, he may cancel the renewal policy within 30 days after receiving it. The insured shall continue or terminate coverage not less than 30 days after mailing or delivery of the notice. If the insured terminates the policy within the 30-day period, the insurer shall calculate earned premium pro rata based upon the prior policy's rate. The new rate is effective only after the required 30-day notification period has been met. If the insured does not terminate the policy, the premium increase and other changes are effective the day following the prior policy's expiration or anniversary date.

(2) This section does not apply if:

(a) the change is a rate or rating plan filed with the commissioner and applicable to the entire classification or classification system to which the policy belongs; or

(b) the increase in the rate or the rating plan, or both, results from a classification change based on the altered nature or extent of the risk insured against.

Section 7. Information about grounds of nonrenewal. (1) If an insured questions the facts upon which an insurer's decision to cancel or not renew is based, the insurer shall mail or deliver such information within 15 working days of receiving a written request from the insured. A notice is not effective unless it contains

adequate information about the insured's right to make the request.

(2) This section does not apply if the grounds for cancellation or nonrenewal is nonpayment of the premium and the notice so states.

Section 8. Homeowners insurance not affected by day-care operations. (1) No insurer writing homeowners insurance in this state may deny an applicant homeowners insurance or cancel or refuse to renew a homeowners insurance policy covering a dwelling located in this state for the principal reason that an insured under the policy operates at the insured location a day-care facility, as defined in 53-4-501, that satisfies the requirements of 53-4-508 or 53-4-509.

(2) This section does not prevent an insurer from excluding or limiting coverage with respect to liability or property losses arising out of an insured's business pursuits, including those related to the operation of a day-care facility.

Section 9. Unfair trade practices. (1) The failure of an insurer to comply with [sections 3 through 8] constitutes an unfair trade practice under 33-18-1003.

(2) Midterm premium increases and policy coverage reductions not in compliance with [sections 1 through 8] that are attempted or executed constitute unfair trade

practices under 33-18-1003.

Section 10. Extension of authority. Any existing authority of the commissioner of insurance to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 11. Codification instruction. Sections 1 through 9 are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to sections 1 through 9.

Section 12. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

CS-32
1985

STATUS SHEET

50th LEGISLATIVE SESSION

BUSINESS AND LABOR COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
189	1/14/87	1/23/87	1/23/87	1/23/87							
191	1/14/87	1/23/87	1/23/87		1/23/87						
194	1/14/87	1/21/87	1/21/87			1/21/87					
196	1/14/87	/121/87	1/26/87			1/26/87					
199	1/14/87	1/22/87	1/22/87		1/22/87						
206	1/14/87	1/22/87	1/22/87	1/22/87		second reading 2/2/87					
218	1/15/87	1/26/87	1/26/87	1/26/87							
228	1/15/87	1/26/87	2/3/87			2/3/87					
231	1/16/87	1/27/87	1/27/87	1/27/87							
232	1/16/87	1/26/87	2/6/87			2/6/87					
240	1/16/87	referred to another committee									
42	1/16/87	1/27/87	1/27/87			1/27/87					
49	1/16/87	1/28/87	2/4/87			2/4/87					
54	1/19/87	1/27/87	1/27/87			1/27/87					
57	1/19/87	1/28/87	1/28/87	1/28/87							

Rep. Hanson asked Ms. Ask to address the problem of the insurance crises being the loss of reinsurance. Ms. Ask stated that a lot of problems that have occurred in the insurance industry concern the problems that insurance companies have had in getting reinsurance for liability coverage.

Rep. Wallin asked if the amendment conflicts with the present law. Ms. Ask responded that the amendment is not necessary because the rules that are in place are sufficient, but there is no conflict.

CLOSING

Rep. Thomas made no further comments.

EXECUTIVE ACTION - January 27, 1987 - 10:10 a.m.

ACTION ON HOUSE BILL NO. 254

Rep. Wallin moved that House Bill No. 254 DO PASS.

Rep. Wallin moved the amendments as proposed by Mr. Drake. The motion carried with the vote being 11 to 7.

Rep. Wallin moved that House Bill No. 254 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 10:30 a.m.

Les Kitselman

REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 27, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

STANDING COMMITTEE REPORT

January 27 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report ECUSZ BILL NO. 254

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

REP. LES KITSELMAN Chairman

REGULATE CANCELLATION OR NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE

AMENDMENTS AS FOLLOWS:

1) Page 4, line 21
Strike: "or"

2) Page 4, line 22
Following: line 21
Insert: "(vi) loss by the insurer of its reinsurance contract; or"
Renumber: subsequent subsection

FIRST WHITE
reading copy (color)

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. House Bill No. 254 DATE January 27, 1987

SPONSOR Rep. Fred Thomas

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Marks J Markiewicz	State Farm	X	
Roger McGlenn	Independent Ins Agents Assoc of Mt	X	
Bonnie Tippy	Alliance of Am Insurers	X	
Tanya Ask	Insurance Dept	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) BUSINESS & INDUSTRY

RUN TIME 08:32
RUN DATE.... 04/22/87

CHAIRMAN--SEN. ALLEN C. KOLSTAD
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-CAROLYN LINDEN

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0228 SWYSGOOD, CHUCK	2/10	3/03	3/3/87 REMOVE AUTOMATIC STAY OF INSURANCE COMMISSIONER'S ORDER UPON APPEAL	CONCUR		3/3/87
HB0232 THOMAS, FRED	2/19	3/05	3/5/87 INCREASE FEE FOR REVIVAL OF CORPORATION AFTER SUSPENSION OR FORFEITURE	CONCUR		3/5/87
HB0240 THOMAS, FRED	3/02	3/09	3/9/87; 3/10/87; 3/11/87 3/12/87 REVISE LAW RELATING TO INSURANCE BAD FAITH CLAIMS	CONCUR		3/12/87
HB0242 HARPER, HAL	2/02	3/13	3/13/87 EXPANDS UTILITY CONSERVATION EXPENDITURES ELIGIBLE FOR RATE BASE INCLUSION	CONCUR		3/13/87
HB0254 THOMAS, FRED	2/02	2/13	2/13/87; 2/16/87; 2/17/87 REGULATE CANCELLATION OR NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE	CONCUR AS AMENDED		2/17/87
HB0257 BRANDEWIE, RAY	2/02	2/20	2/20/87 REVISE LICENSING REQUIREMENTS FOR LAND SURVEYORS	CONCUR		2/20/87
HB0278 GRADY, ED	2/02	3/03	3/3/87 VEHICLE LIAB.--PROCESS CANCELLED POLICY PRO RATA BASIS; RETURN UNEARN. PREM.	CONCUR		3/3/87
HB0310 KITSELMAN, LES	2/03	2/10	2/10/87; 2/11/87 ESTABLISH POLICY FOR APPLICANTS PROVIDING ARCHIT/ENG/LAND SURVEYING SERVICES	CONCUR		2/11/87
HB0332 BROWN, JAN	2/03	2/17	2/17/87 ALLOW PSC TO ISSUE PROTECTIVE ORDERS FOR PROPRIETARY INFORMATION	CONCUR		2/17/87
HB0334 KEENAN, NANCY	2/10	2/20	2/20/87 GENERALLY REVISE LICENSING OF SOCIAL WORKERS, PROFESSIONAL COUNSELORS	CONCUR		2/20/87
HB0362 GLASER, BILL	2/04	3/10	3/10/87; 3/11/87 PENALTY FOR BUILDING CONTRACTOR FAILING TO PAY SUBCONTRACTOR PROMPTLY	TABLED		TABLED 3/11/87

sell it for any price they want, but for whatever the paper tells them. Sen. Thayer stated that as he understood it, the paper boys are covered by insurance, and Chairman Kolstad asked Mr. Mike Voeller, Helena Independent Record, to verify that. He stated that they do offer them the supplimental accident type insurance, which covers them 24 hours per day; however, if they choose not to purchase that, they are covered by a policy the newspaper buys which covers them only when they are delivering papers. Sen. Walker asked Mr. Voeller if there were anything in the statutes that obligates the paper to buy the coverage, and Mr. Voeller answered, "No, but as a smart business practice, a paper would provide that." He stated that he felt that was why the newspapers gladly accepted an amendment in the House that would require a parent or guardian to sign an acknowledgement that a paper carrier would not be covered by workmen's compensation. Sen. Thayer asked Mr. Voeller if there were any newspapers that do not offer the coverage for carriers while they are on their routes, and Mr. Voeller answered, not to his knowledge. (Letter opposing HB 80 Rec'd & Read, EXHIBIT B)

The Motion that House Bill No. 80 BE CONCURRED IN AS AMENDED PASSED with Sen. Walker Voting NO.

CONSIDERATION OF HOUSE BILL NO. 254: Representative Fred Thomas, House District 62, Stevensville and chief sponsor of HB 254, explained that the bill essentially sets up cancellation and non-renewal rules and procedures for when an insurance company can terminate a policy. It is putting into law some rules that the insurance industry is following at this time, that have been very good for the insurance consumer in Montana, as well as the insurance agents of Montana. He noted that there would be some amendments proposed which he would like the committee to consider.

PROPONENTS: Kathy Irigoin, Staff Attorney, Legal Unit, State Auditor's Office presented copies of some proposed amendments to HB 254. She noted that the amendments were essentially corrections. Number one changes the reference to the entire chapter of the insurance code. Number two clarifies the effective date of a cancellation of a policy by an insurance company. The third amendment clarifies the language by changing the word "it" to "the notice." The fourth amendment remedies a typographical error, and the fifth amendmendment clarifies that the information that the insurance company is to deliver has to be delivered to the insured because as it is the bill leaves

it unclear exactly to whom the insurer is supposed to give the information. Ms. Irigoin also explained that by putting the rules into effect as a statute, under HB 254, it removes the possibility that the Commissioner's Officer was acting on shakey grounds. (EXHIBIT 4)

Mr. Roger, McGlenn, Executive Director of the Independent Insurance Agents' Association of Montana, Helena, stated that they supported the administrative rules back in 1985 and they support HB 254. He presented several proposed amendments for clarification. He explained that when you are dealing with large commercial policies there is a great deal of renewal information that must be obtained, such as new evaluations of equipment, etc. They feel that there are several areas where this could present a proplem: and insurance company may be behind in their renewal notices, insurance agents may not have provided the necessary information, or the insured may not have had the information available at the time it was required. That concerns the insurance companies, because they may have to issue a non-renewal notice prior to the 30 days that the bill calls for in order to protect themselves. They would like to propose a new subsection which would make it possible that if a policy were renewed with higher premium rates, and it were not given within that time span provided under Subsection 5, the insured would have 30 days to cancel that policy on a pro rata basis on the basis of the previous premium rates. He stated that their second proposed amendment was put there because of a specific case where school districts were written on a three year basis. An insurance company charged an additional 5% of the premium clearly stated on the declaration page of the policy to guarantee a three year rate. Then, on an anniversary date, the company came back and said they couldn't continue the policy without an increased premium. His group supports the section of the bill, but asked for a clarification, because there are some three year policies that are written on what is called a Deferred Premium Payment Basis. There is no specific charge listed on the declaration page to guarantee the rate. They fear this may be a loophole in the bill on a three year policy that doesn't charge a specific additional premium to guarantee the rate. They would urge the committee's consideration of the amendments to clarify and they believe that they are in the best interests of the Montana insurance consumers. (EXHIBIT 5)

Mr. Glen Drake, Helena, representing the American Insurance Association, and also speaking for the National

Association of Independent Insurers stated that they ask that the committee put back in the amendment that is shown on line 22 of the third reading copy. He explained that the question that the committee would be addressing would be what is in the best interests of the Montana insurance consumer. He stated that Rep. Thomas believes the best interest is served if loss of reinsurance is not included as a basis for mid-term cancellation or renewal. His argument is that he represents the consumer and he is concerned about that person who is losing his insurance by reason of mid-term cancellation. The problem, however, goes a little bit deeper than that. For example, a company wrote a policy for an Eastern Montana bank, including officers' and directors' liability coverage. This was written on a three year basis, annually renewed. They lost their reinsurance at the end of the second year. They gave notice to the bank to that effect, that they would not be able to renew for the third year. The Insurance Commissioner then brought an action against the insurance company asking them to show cause why it was not guilty of deceitful practice, and why it should not be required to continue on on the policy, even though it had lost its reinsurance. Mr. Drake noted that he appeared on behalf of that company at approximately the same time that an action was brought in an Eastern Montana city suing the insurance company for bad faith and asking for declaratory judgment that the company had to stay on risk. They went to hearing here before the Insurance Commissioner Hearings Officer, and the HO determined that the insurance company had a right to nonrenew in view of the circumstances. That is, according to Mr. Drake, where the problem comes. What happened in the case cited was that that company had the same officers' coverage in about 27 states. Montana was the only state out of those that said, "No, you can't cancel without coming to a hearing before this department." The Insurance Dept. took the position that since the other states had allowed the cancellation, the fact that Montana only had $5,000,000 in coverage out compared to the $125,000,000 for the other 27 or so states, it would not put the company in jeopardy, and therefore, it was improper for them to cancel here in Montana,even though the Hearings Officer didn't agree with that and found to the contrary. Mr. Drake related to the committee that a broker from Portland had stated that he had not placed any business in Montana for the last two years because Montana always gave him trouble and no other states accounted for so much hassle. Mr. Drake then told the committee that what must be recognized is that the loss of reinsurance problem only comes about as a general

proposition in hard-to-place lines of insurance, such as officers' and directors' liability or malpractice coverage. It does not happen as a general proposition in auto insurance or anything like that. He felt that what happens if the loss of reinsurance is not included as being a grounds for cancellation, is that there will be less availability of the hard-to-place lines in Montana to the very consumer that Rep. Thomas wants to protect by this bill. Mr. Drake felt that the unavailability would be a far more serious problem than the cancellation and would recommend reinstating the loss of reinsurance as a grounds for cancellation.

OPPONENTS: There were no opponents to House Bill No. 254.

DISCUSSION OF HOUSE BILL NO. 254: Chairman Kolstad opened the discussion by asking Rep. Thomas if he opposed having the language reinstated as suggested by Mr. Drake. Rep. Thomas answered that he did and that he was not at the House committee hearing when the amendment was placed on the bill. He asked the House to take the amendment from the bill and the House took that out. He explained that he felt that a mid-term cancellation was what was in question here because the general public has no knowledge of what reinsurance is or that it could affect the renewal of their policies. The public generally believes that when they buy liability or malpractice coverage they are buying it from the insurance company they have dealt with. Then all of a sudden they are notified, sometime during the length of time they felt they were covered, that their policy would be cancelled. Sen. Thayer wondered if there was any consideration of changing the 30 days to 60 days. Rep. Thomas answered that the 30 days might be a little short, but in general, it works very well for everybody. Secondly, for those lines that are so difficult to place, the people involved in providing that probably have a good idea that a policy may not be renewed, are already working on it and know there might be a problem far ahead of the renewal date. He felt that an extension would not be that advantageous. Sen. Thayer felt that Mr. Drake did make a good point in stating that if we make it even more difficult for companies to provide insurance in the state, where does the consumer benefit? Rep. Thomas stated that he felt that when a company purchases reinsurance from another company they should well know who they are buying from, how long they have been in business, whether they are a solid financial outfit, and whether or not they are going to do something like that. Further, he

felt that those good companies would not buy bad reinsurance from a bad company, and all the proposed amendment would do would be to allow shoddier outfits to sell reinsurance and to exist in a market place that they probably shouldn't be in. Sen. Thayer asked Ms. Irigoin to respond to the same. She stated that she felt that in the case of a company that lost its reinsurance and loss of that reinsurance placed that company in a financially impaired condition, that company would be able to get off the hook because of language in the bill on line 21, page 4.

Rep. Thomas closed the hearing on HB 254 by stating that the consumer should be protected from insurance practices that they have no knowledge of.

There being no further business, Chairman Kolstad announced that the next meeting would be on Monday, February 16, 1987 and adjourned the meeting at 11:43 a.m.

Allen C. Kolstad

SENATOR ALLEN C. KOLSTAD, CHAIRMAN

cl

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 2/13/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

COMMITTEE ON Business & Industry DATE 2/13/87

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check Support
DAVID EWER	Montana Econ. Dev. Board	263	✓
Tamara Scott	DoC	222	—
Bill Egan	DoC	222	—
Dick Hayde	DOR C	222	✓
Ellen Feaver	DOA	222	✓
Pat Melvile	DOC	222	
Ben Havdahl	Mnt Motor Carriers Assn	222	✓
Gary Blewett	DofR	222	
Roger Nicholson	Independent Insurance Agents Assoc. of MT	HB 254	✓
Duane Wright	IPM	SB 229	
Ellen Feaver	American Insurance	254	amend
Kathy Fuller	State Auditor's Office	HB 254	✓

(Please leave prepared statement with Secretary)

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 2/13/87
BILL NO. HB 254

PROPOSED AMENDMENTS OF STATE AUDITOR
HOUSE BILL 254

1. Page 2, lines 4 through 5.
Strike: "33-23-211 through 33-23-214, 33-23-301, 33-23-302, and 33-23-401"
Insert: "chapter 23 of this code"

2. Page 5, lines 8 through 9.
Strike: "date of delivery or mailing"
Insert: "notice is delivered or mailed to the insured"

3. Page 7, line 6.
Strike: "it"
Insert: "the notice"

4. Page 7, line 7.
Strike: "insured"
Insert: "insurer"
Strike: "or terminate"
Following: "coverage"
Insert: "to a period of"

5. Page 8, line 1.
Following: "information"
Insert: "to the insured"

EXHIBIT NO. 5
DATE 2/13/87
BILL NO. HB254

PROPOSED AMENDMENTS TO HB-254 BEFORE SENATE BUSINESS & INDUSTRY

1. Page 6
   Following Line 22:
   Insert: (c) SECTION (6) APPLIES

2. Page 5
   Line 11
   Strike: an agreed term is guaranteed for additional premium consideration
   Insert: THE CHARGES FOR ADDITIONAL INSTALLMENT PERIODS ARE SET FORTH IN THE POLICY

Respectfully submitted by:

Roger McGlenn, Independent Insurance Agents' Association of Montana
phone: 442-9555

DISPOSITION OF SENATE BILL NO. 263: Sen. Thayer moved SB 263 DO PASS, seconded by Sen. Boylan. The MOTION CARRIED with Sen. Walker voting "no".

FURTHER CONSIDERATION OF HOUSE BILL NO. 254: Sen. Boylan MOVED that the committee PASS CONSIDERATION of HB 254 for the day because of questions they had with the bill, seconded by Sen. Thayer. MOTION CARRIED.

FURTHER CONSIDERATION OF SENATE BILL NO. 205: Ms. McCue discussed the amendments which she was preparing and said the problem stems from the fact that the pharmacist can immediately negotiate the voucher at the bank but the bank does not have time to audit it. She suggested that after the pharmacist fills out the negotiable voucher, he could not negotiate it for a few days; meanwhile he would send other copies to the department. After a set period of time he could negotiate it if he had not heard from the department. Sen. Thayer asked if Sen. Halligan had worked out that agreement with the Department of SRS but no one could respond to the question. Because there were so many unanswered questions, Sen. Meyer asked that the bill be deferred for the time being.

DISPOSITION OF SENATE BILL NO. 201: Sen. Thayer MOVED SB 201 BE TABLED, seconded by Sen. Williams. The MOTION CARRIED UNANIMOUSLY.

The next meeting of the Business & Industry committee was set for Tuesday, February 17, 1987.

There being no further business, the meeting was adjourned at 11:25 a.m.

Allen C. Kolstad

SEN. ALLEN C. KOLSTAD, CHAIRMAN

cl

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/16/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DISPOSITION OF SENATE BILL NO. 299: Ms. McCue said there was a typographical amendment on page 7, line 12 - it should have "1" amended into the bill following "within". Sen. Meyer MOVED ADOPTION OF THE AMENDMENT, seconded by Sen. Thayer. The MOTION CARRIED UNANIMOUSLY.

Sen. Meyer then MOVED SB 299 DO PASS AS AMENDED, seconded by Sen. Hager. The MOTION CARRIED UNANIMOUSLY.

FURTHER DISCUSSION OF SENATE BILL NO. 205: Ms. McCue said there was a proposed amendment for the bill. She said the amendment was the suggestion of Sen. Halligan, that the pharmacist would have to hold onto the voucher for 30 days to give the department an opportunity to audit the voucher. If they didn't respond within that period the pharmacist could negotiate it at the bank.

Sen. Neuman questioned whether there was enough need for this to warrant considering the amendments. Chairman Kolstad suggested that they hold the bill for another meeting. Sen. Neuman asked for a "straw vote" on the concept of the bill. The show of hands indicated there was sentiment in favor of the bill, however, some of the members felt it was a bad bill. The bill will be considered further at a later time.

FURTHER DISCUSSION OF SENATE BILL NO. 222: Chairman Kolstad said they had not received the revised statement of intent for SB 222. Sen. Thayer felt this should be in the department of administration where it could be coordinated more easily and Sen. Farrell had suggested that earlier. It was pointed out it was a revised Fiscal Note rather than a statement of intent for which they were waiting. It was the decision of the committee to hold the bill for a future meeting.

DISPOSITION OF HOUSE BILL NO. 254: Chairman Kolstad said there were amendments proposed by Glen Drake. The amendments were added in the House committee, removed on the House floor, and now being proposed in this committee, however, Rep. Thomas, the sponsor did not want the amendments. Sen. Walker agreed with the feelings of Rep. Thomas, as did Sen. Weeding.

Sen. Thayer MOVED ADOPTION OF THE AMENDMENTS, seconded by Sen. Walker. The MOTION CARRIED UNANIMOUSLY. Chairman Kolstad said these were clarification amendments prepared by Ms. McCue.

Sen. Walker MOVED HB 254 BE CONCURRED IN AS AMENDED, seconded by Sen. Meyer. Sen. Walker stated that he would WITHDRAW HIS MOTION in order that they could go back and take care of the amendments proposed by Roger McGlenn. Sen. Thayer said that Rep. Thomas had objected to the amendments of both Mr. Drake and Mr. McGlenn and recommended they pass the bill without them. Following further discussion, it was the decision of the committee to disregard both those amendments, therefore, Sen. Walker MOVED HB 254 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 2/17/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 17 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 254

Third reading copy (Blue color)

REGULATE CANCELLATION OR NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE

THOMAS (BROWN AND THAYER)

Respectfully report as follows: That HOUSE BILL No. 254

be amended as follows:

1. Page 2, lines 4 and 5.
   Strike: "33-23-211 through 33-23-214, 33-23-301, 33-23-302, and 33-22-401"
   Insert: "chapter 23 of this title"

2. Page 5, lines 8 and 9.
   Strike: "date of delivery or mailing"
   Insert: "notice is delivered or mailed to the insured"

3. Page 7, line 6.
   Strike: "it"
   Insert: "the notice"

4. Page 7, line 7.
   Strike: "insured"
   Insert: "insurer"
   Strike: "or terminate"
   Following: "coverage"
   Insert: "for a period of"

5. Page 8, line 1.
   Following: "information"
   Insert: "to the insured"

AND AS AMENDED,
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

ALLEN C. KOLSTAD Chairman.

HOUSE BILL NO. 254

INTRODUCED BY THOMAS, B. BROWN

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

ON LIABILITY ISSUES

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE GROUNDS ON WHICH PROPERTY OR CASUALTY INSURANCE MAY BE CANCELED OR NOT RENEWED; AND REQUIRING NOTICE OF CANCELLATION OR NONRENEWAL OF A PROPERTY OR CASUALTY POLICY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose -- applicability. (1) The purpose of [sections 1 through 9] is to protect the public with regard to insurance transactions that involve cancellation, renewal, nonrenewal, or premium increases on contracts of property or casualty insurance by:

(a) regulating the grounds for midterm cancellation of an insurance policy;

(b) prohibiting midterm increases in premiums;

(c) increasing the opportunity for insureds to shop for replacement or substitute insurance;

(d) reducing the opportunity for breach of contract, misrepresentation by omission or untimely disclosure, and unfair discrimination among insureds; and

(e) increasing the opportunity for agents to compete freely.

(2) [Sections 1 through 9] apply to those forms of insurance defined in 33-1-206 and 33-1-210, except to the extent they conflict with ~~33-23-211--through--33-23-214, 33-23-301, 33-23-302, --and--33-23-401~~ CHAPTER 23 OF THIS TITLE.

(3) [Sections 1 through 9] do not limit the activities that may constitute undefined unfair trade practices prohibited by 33-18-1003. The commissioner may apply other provisions of this code to insurance transactions involving cancellation, renewal, nonrenewal, or premium increases on contracts of property or casualty insurance. Policies may provide terms more favorable to insureds than are required by [sections 1 through 9]. The rights provided by [sections 1 through 9] are in addition to and do not prejudice any other rights that the insured may have under common law, statutes, or rules.

Section 2. Definitions. As used in [sections 1 through 9], the following definitions apply unless the context requires otherwise:

(1) "Anniversary date" means the month and day that rates, rating plans, and rating systems are initially applied to a policy in effect. The term includes each annual anniversary thereafter unless the insurer establishes a different date by a filing with the commissioner.

REFERENCE BILL

(2) "Cancellation" means the decision by the insurer to terminate an insurance policy prior to the expiration of its term.

(3) "Classification" means an arrangement of insurance risks into an underwriting or rating group according to a classification system used by an insurer as a basis for tabulating statistical experience and determining premium rates.

(4) "Classification system" means a schedule of classifications and a rule used by an insurer for determining the classifications applicable to an insured.

(5) "Insurer" means an insurer authorized to transact property or casualty insurance in this state.

(6) "Premium" means the contractual consideration charged to an insured for insurance for a specified period of time, regardless of the timing of actual charges.

(7) "Rate" means a monetary amount applied to the units of exposure assigned to a classification and used by an insurer to determine the premium for an insured.

(8) "Rating plan" means a rule used by an insurer to calculate:

(a) the premium for an insured; and

(b) the parameter values used in such calculation after application of classification premium rates to units of exposure.

(9) "Renewal" means an agreement between an insurer and an insured to extend or continue an existing insurance policy for 90 days or more.

Section 3. Midterm cancellation. (1) An insurer may not cancel an insurance policy before either the expiration of the agreed term or 1 year from the effective date of the policy or renewal date, whichever is less, except:

(a) for reasons specifically allowed by statute;

(b) for failure to pay a premium when due; or

(c) on grounds stated in the policy which pertain to the following:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk when the contract was written;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) determination by the commissioner that continuation of the policy would place the insurer in violation of this code;

(v) financial impairment of the insurer; ~~or~~ OR

~~(vi) LOSS BY THE INSURER OF ITS REINSURANCE CONTRACT; OR~~

~~(vii)~~(VI) any other reason approved by the

commissioner.

(2) Cancellation under subsection (1) is not effective until 10 days after a notice of cancellation is either delivered or mailed to the insured.

(3) Subsections (1) and (2) do not apply to a newly issued insurance policy if the policy has been in effect less than 60 days at the time the notice of cancellation is mailed or delivered. No cancellation under this subsection is effective until 10 days after the ~~date--of--delivery--or mailing~~ NOTICE IS DELIVERED OR MAILED TO THE INSURED.

(4) If a policy has been issued for a term longer than 1 year and if either the premium is prepaid or an agreed term is guaranteed for additional premium consideration, the insurer may not cancel the policy except:

(a) for reasons specifically allowed by statute;

(b) for failure to pay a premium when due; or

(c) on grounds stated in the policy which pertain to those grounds listed in subsection (1)(c).

Section 4. Anniversary cancellation -- anniversary rate increases. (1) An insurer may issue a policy for a term longer than 1 year or for an indefinite term if the policy contains a clause that allows cancellation by the insurer if the insurer gives notice 30 days prior to an anniversary date.

(2) If a policy has been issued for a term longer than

1 year and for additional premium consideration an annual premium has been guaranteed, the insurer may not increase the annual premium for the term of that policy.

Section 5. Nonrenewal -- renewal premium. (1) An insured has a right to reasonable notice of nonrenewal. Unless otherwise provided by statute or unless a longer term is provided in the policy, at least 30 days prior to the expiration date provided in the policy, an insurer who does not intend to renew a policy beyond the agreed expiration date shall mail or deliver to the insured a notice of such intention. The insurer shall also mail or deliver a copy to the insured's agent.

(2) An insurer shall give notice of premium due not more than 60 days or less than 10 days before the due date of a renewal premium. The notice must clearly state the effect of nonpayment of the premium on or before the due date.

(3) Subsections (1) and (2) do not apply if:

(a) the insured has obtained insurance elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal; or

(b) the policy is expressly designated as nonrenewable.

Section 6. Renewal with altered terms. (1) If an insurer offers or purports to renew a policy but on less

favorable terms, at a higher rate, or at a higher rating plan, the new terms, rates, or rating plan take effect on the policy renewal date only if the insurer has mailed or delivered notice of the new terms, rates, or rating plan to the insured at least 30 days before the expiration date. If the insured has not been so notified, he may cancel the renewal policy within 30 days after receiving ~~it~~ THE NOTICE. The ~~insured~~ INSURER shall continue ~~or terminate~~ coverage FOR A PERIOD OF not less than 30 days after mailing or delivery of the notice. If the insured terminates the policy within the 30-day period, the insurer shall calculate earned premium pro rata based upon the prior policy's rate. The new rate is effective only after the required 30-day notification period has been met. If the insured does not terminate the policy, the premium increase and other changes are effective the day following the prior policy's expiration or anniversary date.

(2) This section does not apply if:

(a) the change is a rate or rating plan filed with the commissioner and applicable to the entire classification or classification system to which the policy belongs; or

(b) the increase in the rate or the rating plan, or both, results from a classification change based on the altered nature or extent of the risk insured against.

Section 7. Information about grounds of nonrenewal.

(1) If an insured questions the facts upon which an insurer's decision to cancel or not renew is based, the insurer shall mail or deliver such information TO THE INSURED within 15 working days of receiving a written request from the insured. A notice is not effective unless it contains adequate information about the insured's right to make the request.

(2) This section does not apply if the grounds for cancellation or nonrenewal is nonpayment of the premium and the notice so states.

Section 8. Homeowners insurance not affected by day-care operations. (1) No insurer writing homeowners insurance in this state may deny an applicant homeowners insurance or cancel or refuse to renew a homeowners insurance policy covering a dwelling located in this state for the principal reason that an insured under the policy operates at the insured location a day-care facility, as defined in 53-4-501, that satisfies the requirements of 53-4-508 or 53-4-509.

(2) This section does not prevent an insurer from excluding or limiting coverage with respect to liability or property losses arising out of an insured's business pursuits, including those related to the operation of a day-care facility.

Section 9. Unfair trade practices. (1) The failure of

an insurer to comply with [sections 3 through 8] constitutes an unfair trade practice under 33-18-1003.

(2) Midterm premium increases and policy coverage reductions not in compliance with [sections 1 through 8] that are attempted or executed constitute unfair trade practices under 33-18-1003.

Section 10. Extension of authority. Any existing authority of the commissioner of insurance to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 11. Codification instruction. Sections 1 through 9 are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to sections 1 through 9.

Section 12. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-